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8-15-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ji *et al.*

Appl. No. 09/017,715

Filed: February 3, 1998

For: **Breast Cancer Specific Gene 1**

Confirmation No.

Art Unit: 1642

Examiner: Canella, K.

Atty. Docket: 1488.0810003

**Petition Under 37 C.F.R. § 1.144 from  
Requirement for Restriction**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

It is hereby petitioned that the Restriction Requirement in the above-captioned application be withdrawn. Applicants submit that this petition is proper, as Applicants requested reconsideration of said Restriction Requirement in the Amendment and Reply filed March 22, 2000.

The Examiner required restriction of the invention of claim 79 from the invention of claims 16-78. Claim 79 is directed to the polynucleotide of SEQ ID NO:12. Claims 16-78 are directed to the polynucleotide of SEQ ID NO:1. Applicants submit that a reasonable number of independent and distinct nucleotide sequences, usually up to ten, are permitted to be claimed in a single application. *See* 1192 O.G. 68 (November 19, 1996); and M.P.E.P. § 803.04. Although SEQ ID NO:1 and SEQ ID NO:12 may be patentably distinct, Applicants submit that they constitute a "reasonable number" of nucleotide sequences to be examined. Accordingly, withdrawal of the restriction requirement, with respect to SEQ ID NO:1 and SEQ ID NO:12, is respectfully requested.

It is believed that no extensions of time are necessary, other than those that are otherwise provided for herewith. However, if extensions of time under 37 C.F.R. § 1.136

other than those provided herewith are required to prevent abandonment of the above-captioned application, then such extensions of time are hereby petitioned.

This petition is accompanied by our Check No. 32190 for the required fee (37 C.F.R. § 1.17(i)). The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036. A duplicate copy of this petition is enclosed.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

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Date August 10, 2001

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